

Watch Out for Fee Error in 2005 Edition of Bankruptcy Code

It has come to our attention that the 2005 edition of the Bankruptcy Code published by Thomson West has an error in the Bankruptcy Court Miscellaneous Fee Schedule appended to 28 U.S.C. §1930. Item 20 of the Fee Schedule published by Thomson West states that the fee for filing a motion to lift stay (or to compel abandonment or withdraw the reference) shall be “the amount of the filing fee prescribed in 28 U.S.C. § 1914(a)” for filing a civil action. This item is incorrect. In 2004, in order to ensure that increases to the civil action filing fee have no impact on the fee for filing a motion to lift the automatic stay, the Judicial Conference approved a recommendation to amend Item 20 to delete the reference to the amount required for filing a civil action and insert language establishing a \$150 fee for a motion to lift the automatic stay.

The correct wording of the relevant portion of Item 20 is as follows:

For filing a motion to terminate, annul, modify, or condition the automatic stay provided under § 362(a) of title 11, a motion to compel abandonment of property of the estate pursuant to Rule 6007(b) of the Federal Rules of Bankruptcy Procedure, or a motion to withdraw the reference of a case or proceeding under 28 U.S.C. § 157(d), **\$150**.

Thus, although the civil filing fee under 11 U.S.C. § 1914 was raised to \$250, the fee for filing a lift stay motion remains at \$150. However, Item 6 of the Miscellaneous Fee Schedule, which sets forth the fee for filing an adversary proceeding, is still tied to the civil action filing fee. As noted in the item on this web page dated August 30, 2005, the adversary proceeding filing fee will increase to \$250 on September 20, 2005.